PATHLIGHT
ASSOCIATES LIMITED

Skilled Person Learnings for Consumer Investments Firms #1

CASS - Avoiding slip ups

Skilled Person (FSMA s166) reports continue to drive up costs for firms, increase regulatory scrutiny, and cause reputational damage. There is no sign that they are reducing in number. Although a lack of proactive engagement with the FCA often contributes to a Skilled Person report being mandated, we often find weaknesses in critical, embedded controls.

This is the first in a series of articles which share practical 'lessons learned' insights from our Skilled Person and advisory work covering:

1. CASS
2. Financial crime
3. Advisory and sales practices
4. Portfolio and fund management
5. Product governance

We aim to provide actionable takeaways for firms. If you would like a healthcheck or simply a discussion about the application of these areas to your business, please let us know.

Top Ten Actionable Learnings from our Work

CASS continues to attract significant regulatory scrutiny and commonly, it is some of the more embedded and straightforward CASS requirements and controls that create regulatory scrutiny. Many of these 'top 10' reasons may surprise you, but are nonetheless repetitive themes in regulatory interventions and areas where firms often believe they have robust control frameworks, until these are scrutinised.

1. **Weak self identification of issues and lack of proactivity with the regulator** - particularly where basic issues (such as non-compliance with key reconciliation rules) are being identified by auditors (and not the firm); or material matters are not being escalated internally and/or externally, whether driven by a lack of awareness or cultural weaknesses.
2. **Lack of Senior Manager awareness of the key CASS risks inherent in their business** - which is commonly caused by a lack of CASS focus within governance arrangements, inadequate CASS data or a lack of clarity as to key CASS risks inherent in organisational strategies.
3. **Staff performing Prescribed Responsibility/reconciliation roles are not trained** - commonly caused by the use of generic, off the shelf training which is not tailored to the CASS risks in the business; a lack of role specific education to supplement broader training; and limited targeted training for senior managers.
4. **'Over' or 'under' reliance on technology** - where over-reliance on platforms leads to key staff unable to describe/fully understand the CASS environment and controls (leading to concerns as to expertise and the ability to maintain data integrity); or heavy reliance on manual spreadsheets that are complicated, contain unnecessary books and records and are not protected from errors in formulae.
5. **CASS Resolution Plan out of date or incomplete** - either through not being reviewed regularly or not containing current data on individuals, reconciliations or third parties.
6. **Use of 'external' records within the internal client money reconciliation (ICMR)** - where the ICMR conflates internal and external records, uses external bank statements to confirm internal records or uses external records to replace an internal record source.
7. **Lack of clear ICMR governance and structure** - particularly regarding the 'cut off' times for books and records, the basis of records used for the client money requirement and client money resource and formal approval of internal (and external) reconciliations.

8. **Weak or non-compliant contractual arrangements** - including incorrect acknowledgement letters; TTCA contracts that are unclear on the consequences of TTCA arrangements (or used for retail customers); and general liens in custodian contracts that can facilitate inappropriate use of client assets.
9. **Incorrect CMAR reporting** - caused by poor data quality, incorrect reconciliations or misaligned systems.
10. **'Elective Professionals' enter into TTCA contracts without a proper determination of their status** - leading to 'retail' customers using TTCA arrangements due to their classification not being in line with COBs 3.